

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Review Item:

701 KAR 5:031, Repeal of 701 KAR 5:035, Procedures for Record Requests

Applicable Statute or Regulation:

KRS 61.876, 200 KAR 1:020, KRS 156.070

History/Background:

Existing Policy. The Finance and Administration Cabinet (FAC) is authorized by KRS 61.876(3) to promulgate uniform rules governing public access to public records maintained by administrative agencies of the state government. 200 KAR 1:020 is the FAC's regulation for the purpose of setting the procedures for record requests to all agencies. This administrative regulation establishes the general rules to be followed by all state administrative agencies in affording public access to their records and by persons applying to inspect such records.

Over the years, some agencies elected to promulgate regulations specific to that agency for the purpose of record request procedures. KDE's regulation governing record requests (701 KAR 5:035) was created in 1992. Because the FAC's regulation is designed for use by all agencies, the Office of Attorney General now recommends that agencies just simply rely upon and reference the FAC regulation and not have a specific regulation regarding record requests. If the KDE regulation were maintained, it becomes superfluous and risks conflicting with the FAC regulation on the same subject matter. Thus, staff recommends the repeal of 701 KAR 5:035.

Impact on Getting to Proficiency:

Repeal of this regulation will streamline the open record process for education stakeholders.

Groups Consulted and Brief Summary of Responses:

The Local Superintendents Advisory Council will review this regulation at its next meeting and provide input to the board.

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